

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER 97-0588
Sales Tax
For The Period 1994, 1995, 1996

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ISSUE

1. Sales/Use Tax – Purchase of tools and equipment by a manufacturer

Authority: IC 6-2.5-5-3

Taxpayer protested a proposed assessment of use tax on the purchase of coordinate measuring machine.

STATEMENT OF FACTS

Taxpayer is engaged in the manufacture of steel stampings for casket lids, auto parts, dies, and machine tools. Further, taxpayer provides repair services for dies and machine tools. The written protest filed October 30, 1997 protests the assessment of sales/use tax on the purchase price of a Coordinate Measuring Machine (CMM). The proposed assessment of this purchase was made at 50% of cost based upon an audit determination that the machine was used in design, testing, research and development as well as manufacturing. The balance of the proposed assessment was calculated at a factor of 35% on purchases. That is to say, an estimate agreeable to taxpayer and the Department was that 65% of the purchases of machinery, tools and equipment is used in an exempt fashion. It is not clear why the distribution between the purchase of "general stuff" and the CMM.

The CMM is a machine used to determine the position of dowel holes in a die. Typically if the specification on hole position is met the product moves to the next production step. The CMM can be used to ascertain the position of dowel holes in a die in cases where a customer wants to duplicate a die.

DISCUSSION

The only issue before the hearing officer is whether or not a use tax attaches to the purchase of the coordinate measuring machine (CMM) at a 50% level. In other words, the audit report accepted the fact that the CMM passes the test for the Indiana Code Section 6-2.5-5-3 exemption but pro rates the exemption between production and non-production. The audit report assessed use tax at 50% of cost thus it is concluded the CMM is used only 50% of the time pursuant to Indiana Code Section 6-2.5-5-3. However, the report is silent as to how the percentage allocation was developed.

Under date of June 18, 1998 taxpayer stated:

We also use this machine to verify some incoming material such as machined products (punch retainers as an example) for products we manufacture. In other applications we use this machine for developing customer tooling. This is a matter of creating a computer data model from a customer furnished physical model to be used to design customer tooling.

This statement was verified during the hearing thus, it is reasonable to conclude that in point of fact the subject machine has some non-exempt use in the scheme of things. Is that 50% of the time? The Department believes it is taxpayer's burden to overcome a proposed assessment, see Indiana Code Section 6-8.1-5-1 with some evidence to the contrary. There was none.

FINDING

Taxpayer protest is denied.